IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION No. 21172 of 2004

Between:

K.V.Narayana Reddy, s/o Sri Konda Reddy,Advocate,
Practising at Markapur, Prakasam District.

..... PETITIONER

AND

1.The Government of Andhra Pradesh, rep., by its Secretary, Commerce and Industries, Secretariat, Hyderabad.
2. The Director, Mines and Geology, BRKR Bhavan, Hyderabad.
3. The Chairman, NABARD, Mumbai.
4. The Superintending Engineer, Irrigation Circle, Ongole-573 001.
5.The Commissionerate of Tenders rep., by its Commissioner, B.R.K.R.Bhavan, Hyderabad.
6. The District Collector, Prakasam District, Ongole.
7. The Principal Chief Conservator of Forests, Aranya Bhavan, Saifabad, Hyderabad.
8. The Secretary, Finance Department, the Government of A.P., Secretariat, Hyderabad.
9. The Secretary, Revenue Department, The Government of A.P., Secretariat, Hyderabad.
10. The Central Regional Conservator of Forests, Govt. of India, Bangalore.
11. The Government of India rep., by its Secretary, Finance, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ order or direction particularly one in the nature of Mandamus declaring the action of the respondent department in initiating and going ahead with the proposal for the construction of "Sri Ramtheertham Balancing Reservoir across Ongole Branch Canal of Nagarjune Sagar Project" at Cheemakurthy Mandal, Prakasam District, as illegal, arbitrary, contrary to the Public interest, contrary to the interest of the State and Central Governments in terms of revenue losses and consequently direct the 4th respondent to consider re-locating the said Project in any other viable place.

Counsel for the Petitioner: Dr. P.B.VIJAY KUMAR

Counsel for the Respondents 1 to 9:The Advocate-General

Counsel for Respondents 10& 11: Mr.A.Rajasekhar Reddy

SC for Central Government.

The Court made the following :

ORAL ORDER:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

On an earlier occasion, Writ Petition was disposed of on 21.9.2004 i.e. W.P.No.16687 of 2004, granting liberty to the petitioner to submit representation to the respondents, and, respondents were directed to take appropriate decision on the representation of the petitioner and convey the same to the writ petitioner. Pursuant to the said order, petitioner represented to the respondents and on 18.11.2004, reply was given to the petitioner as regards the decision taken on the representation. But, before that, on 15.11.2004, this Writ Petition was filed as Public Interest Litigation. Petitioner is claiming that he is a practising advocate at Markapur, and, wants to bring to the notice of the Court of the possible revenue loss to the Government, in case, the construction of “Sri Ramatheertham Balancing Reservoir on Ongole Branch Canal in between 16/5+330 and M.19/3+110 near Ramatheerdham village, Chimakurthy Mandal, Prakasam District” is completed.

On the very first date, learned Advocate-General pointed out that the petitioner has since been informed of the fact that his representation was duly considered, and, that there was no necessity to relocate the project since the proposal at the present

location after examining all technical aspects was found to be viable in the interests of public in the surrounding area.

Instead of challenging the action of the respondents in rejecting the petitioner's representation, petitioner has filed this Writ Petition placing reliance on the technical report alleged to have been submitted by a private Geologist, B.Sadasiva Rao, that the proposal to construct the balancing reservoir at the site in question is likely to affect adversely the geological order inasmuch as there is rare quality of granite available in the area, which will be lost for all days to come, thereby, causing revenue loss to the Government.

We have heard the learned counsel for the petitioner.

The reservoir is proposed to supplement the gap quantity of 2.59 TMC of water in order to bring the 70,000 A/c distressed ayacut into I.D. crop cultivation. As the live storage of reservoir is 1.25 TMC and dead storage of the Reservoir is 0.264 TMC, it is contemplated to fill the Reservoir 2 times i.e. during the seed beds period and grown period of paddy where the requirement of water is at lowest level. During these two stages of lowest requirements excess water will be pushed into the balancing tank for using the same at peak periods.

There is no catchment area available for the Reservoir, and, the purpose to have the reservoir is to supplement the existing ayacut only. Under the scheme, there are small bunds to be constructed, namely, southern bund, the total length of which is proposed about 1015 mtrs. with a maximum height of 12.44 mtrs., and, western bund with maximum length of 1125 mtrs. and maximum height of 24.43 mtrs.. The project report suggests the proposal to take care to incorporate seismic coefficient in the design, as the dam site falls in the seismic zone, and, before constructing the project, it was suggested to contact the Mines and Geology Department to know about the extent of galaxy stone likely to be available in the submerged area. This report is dated January, 2004. Thereafter, petitioner's representation was duly considered in November, 2004 and was informed that decision has been taken not to relocate the site of the project, since after examining all pros and cons including technical aspects, the proposal is found to be viable and in larger public interest, particularly in the interests of the public in the surrounding area. In this view of the matter, we do not find any ground to interfere in the matter, more particularly, when the technical report, on which learned counsel for the petitioner has relied is not a

report obtained by the Government, but, a report obtained by the four individual granite mine owners, at whose behest, the report was prepared. The Writ Petition, therefore, is dismissed. No costs.

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DEVINDER GUPTA, C.J.

31.12005.

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M.NARAYANA REDDY, J.

VR.

To

1.The Secretary to Government of Andhra Pradesh, Commerce and Industries, Secretariat, Hyderabad.
2. The Director, Mines and Geology, BRKR Bhavan, Hyderabad.
3. The Chairman, NABARD, Mumbai.
4. The Superintending Engineer, Irrigation Circle, Ongole-573 001.
5.The Commissioner, Commissionerate of Tenders B.R.K.R.Bhavan, Hyderabad.
6. The District Collector, Prakasam District, Ongole.
7. The Principal Chief Conservator of Forests, Aranya Bhavan, Saifabad, Hyderabad.
8. The Secretary, Finance Department,Government of A.P., Secretariat, Hyderabad.
9. The Secretary, Revenue Department, The Government of A.P., Secretariat, Hyderabad.
10. The Central Regional Conservator of Forests, The Government of India, Bangalore.
11. The Secretary to Government of India, Finance, New Delhi.

12. Two CCs to the Advocate-General, High Court Buildings, Hyderabad (OUT).

13. Two CD copies.